

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF NEW YORK

IN RE:

THE BENNETT FUNDING GROUP, INC.

Debtors

CASE NO. 96-61376

Chapter 11

Substantively Consolidated

ORDER

Richard C. Breeden, duly appointed Trustee (“the Trustee”) in the substantively consolidated bankruptcy cases of The Bennett Funding Group, Inc., (“BFG”), Bennett Receivables Corporation (“BRC”), Bennett Receivables Corporation II (“BRC II”), Bennett Management & Development Corporation (“BMDC”), The Processing Center, Inc. (“TPC”), Resort Service Company, Inc. (“RSC”), American Marine International, Ltd. (“AMI”) and Aloha Capital Corporation (“Aloha”; collectively, the “Debtors”), having moved this Court by his motion dated October 28, 1998, for an order authorizing the consolidated estate to enter into settlements of avoidance action claims under specified parameters without further Court approval and said motion having been opposed by Hancock & Estabrook, Daniel Berman, Esq., of counsel, on behalf of various bank creditors, Harter Secrest and Emery, John Weider, Esq. of counsel, on behalf of various bank creditors, Wasserman, Jurista and Stolz, Daniel Stolz, Esq. of counsel, for the Official Committee of Unsecured Creditors (“Creditors Committee”), and Bond, Schoeneck & King, James Dati, Esq. of counsel, on behalf of various bank creditors, and said motion having appeared on the Court’s calendar on November 12, 1998 and having, thereafter, been adjourned from time to time in an effort to reach a negotiated resolution of the motion, and the parties having been unable to reach a stipulated order, and, whereas, it appears that the Trustee requests authority to settle some 1,300 avoidance actions which seek to recover approximately \$22 million

and, whereas none of the actions for which the Trustee seeks authority to settle individually exceed \$100,000 per action; now, therefore, it is

ORDERED that said actions may be settled as follows:

A. For amounts claimed up to \$10,000, Trustee's may settle such adversary proceedings without Court approval, but subject to notice to and approval by the Creditor's Committee as follows:

Counsel for the Trustee will advise counsel for the Creditors Committee in writing no later than twenty (20) days before any such settlement is to be closed, of the name(s) of the defendant(s), the adversary proceeding number, the amount sought in the complaint, the proposed settlement amount, the reason for the settlement and the closing date. If counsel for the Creditors Committee objects to any such settlement, written notice of the objection shall be provided to Trustee's counsel no later than five(5) days before the closing date for the settlement, and counsel for the Trustee will then seek approval from the Court by appropriate notice and motion pursuant to Bankruptcy Rule 9019, unless the Creditors Committee's objection is resolved to the satisfaction of the Creditors Committee prior to the Trustee giving notice.

B. For claimed amounts of \$10,001 up to \$50,000, the Trustee's counsel shall follow the same procedure set forth in paragraph A, except that additional notice shall be given to the U.S. Trustee and Harter, Secrest & Emery, as clearinghouse for the so-called non-settled banks, and said U.S. Trustee and the non-settled banks may object in the same manner as the counsel for the Creditors Committee.

C. For claimed amounts exceeding \$50,000, settlements will be subject to the appropriate notice and motion under Bankruptcy Rule 9019 and, it is finally

ORDERED that the Court in determining whether or not to approve or reject a proposed settlement will consider among other factors:

- (a) probability of success in the adversary proceeding
- (b) the difficulty in collecting after obtaining a judgment in the adversary proceeding
- (c) the complexity of the adversary proceeding and the expense, inconvenience and delay necessarily attending it, and
- (d) the interest of creditors and a proper deference to their reasonable views of the settlement.

Dated at Utica, New York

this 3rd day of March 1999

STEPHEN D. GERLING
Chief U.S. Bankruptcy Judge